

CALL FOR COMMENT
NYSED SPECIAL EDUCATION MANDATE RELIEF PROPOSALS

The New York State Education Department (NYSED) has begun to solicit comment and has scheduled three public hearings on special education mandate relief proposals intended to increase local flexibility and reduce special education requirements.

Since February 2011, the Board of Regents has discussed mandate relief options at each of its monthly meetings. At their May meeting, the Regents directed NYSED to seek public comment on selected special education mandate relief proposals prior to proposing statutory revisions or adopting regulatory changes.

NYSUT has been monitoring these ongoing discussions in order to counter any mandate relief proposals that will negatively impact special education programs and services for students with disabilities and to ensure that the rights of students with disabilities and their parents are protected. Our position on the proposals can be found in the following chart.

We encourage NYSUT members and other interested parties to comment on these proposals – either in writing by **July 25th** or at the public hearings (June 28th in New York City and in Rochester or June 29th in Albany). Your comments should reflect specific examples on how these changes will negatively impact the special education programs and services in your school districts and BOCES.

For more specific information on the proposals and the public comment process, see: <http://www.p12.nysed.gov/specialed/policy/mandaterelief-publichearing611.htm>

Where We Stand

SED MANDATE RELIEF PROPOSALS		<i>NYSUT POSITION</i>
<p>Committee on Special Education (CSE) Membership</p> <p>1. Conform the membership of the CSE to the federal individualized education program (IEP) team membership</p>	<ul style="list-style-type: none"> • Repeal the requirement that a school psychologist and an additional parent of a student with a disability (other than the parent of the student to be discussed) must attend each CSE meeting. • Repeal the requirement that a school physician attend the CSE meeting, if requested by the school or parent at least 72 hours before the 	<p><i>We oppose this proposal.</i></p> <p><i>While it may be reasonable to discuss other options for involving a physician in the CSE process, a school psychologist provides value to the CSE decision-making process that cannot be duplicated by other mandated members.</i></p> <p><i>Federal IDEA does not require a psychologist, however the IEP Team is</i></p>

	<p>meeting.</p>	<p><i>required to have “an individual who can interpret the instructional implications of evaluation results.” We believe that the role is appropriately filled by the school psychologist.</i></p> <p><i>If the mandate is repealed, the interpretation of instructional implications of the evaluative information would be left to other required CSE members such as the district representative, special education teacher or general education teacher. The CSE would not have the same depth of staff resources available for decision-making regarding appropriate student programs and services.</i></p> <p><i>The flexibility and any perceived cost savings realized by eliminating this CSE member will seriously impair the ability of the CSE to identify appropriate programs and services for students with disabilities based upon their individual needs.</i></p> <p><i>The requirement for an additional parent on the CSE was established as a result of persuasive support from many constituencies including parent and student advocacy groups. No evidence is presented</i></p>
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	<ul style="list-style-type: none"> • Repeal requirements relating to Subcommittees on Special Education and related notices to parent regarding subcommittee meetings. 	<p><i>We oppose this proposal and support the continued flexibility provided by sub-CSEs.</i></p>
<p>Committee on Preschool Special Education (CPSE)</p> <p>2. Conform the membership of the CPSE to the federal IEP team membership</p>	<ul style="list-style-type: none"> • Repeal the requirement that CPSE membership must include an additional parent member (other than the parent of the preschool student to be discussed). • Retain the current State requirement that a representative of the municipality of the preschool child’s residence as a member of the CPSE, provided that the attendance of the appointment of the municipality shall not be required for a quorum. 	<p><i>We oppose this proposal. While we take no position on maintaining the municipality member on the CPSE, the requirement for an additional parent on the CPSE was established as a result of persuasive support from many constituencies including parent and student advocacy groups. No evidence is presented that would indicate that the interests of children and families will be well-served by such a change.</i></p>

<p>Individual Evaluations</p> <p>3. Repeal the requirement that the parent(s) selects the preschool evaluator</p>	<ul style="list-style-type: none"> • Replace it with the requirement that the school district, after providing the parent(s) with a list of approved evaluators, must consult with the parent(s) regarding the selection of an approved evaluator that can provide a timely evaluation of the preschool child. • Deem that all public school districts are approved preschool evaluators pursuant to section 4410 of the Education Law. 	<p><i>We oppose this proposal. Parental choice of preschool evaluators is a clear requirement in Education Law that was established as a result of persuasive support from many constituencies including parent and student advocacy groups. No evidence is presented that would indicate that the interests of children and families will be well-served by such a change.</i></p>
<p>4. Align the preschool initial evaluation timeline to be the same as the evaluation timeline for school-age students, which is 60 calendar days</p>	<ul style="list-style-type: none"> • Repeal the requirement that the initial evaluation be conducted within 30 school days of the date of parental consent to conduct the evaluation. • Replace it with a requirement that the initial evaluation of a preschool child be conducted within 60 calendar days of the date of parental consent to conduct the evaluation. 	<p><i>We take no position on this proposal.</i></p>
<p>5. Adopt the federal standard for initial evaluations</p>	<ul style="list-style-type: none"> • Repeal the requirement that each individual evaluation of a student suspected of having a disability must include a physical examination, individual psychological evaluation, social history, observation, other appropriate evaluations and 	<p><i>We oppose this proposal. The requirement for a comprehensive initial evaluation ensures decisions regarding eligibility for special education services are based upon a wide range of evaluative information. The flexibility provided by</i></p>

	<p>functional behavioral assessment (FBA) when behavior impedes learning.</p> <ul style="list-style-type: none"> • Replace it with the federal requirement that the initial evaluation include an assessment of the student in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities. 	<p><i>this proposal would not ensure a comprehensive evaluation when faced with the reality of fiscal limitations and staffing reductions.</i></p> <p><i>There currently is flexibility in regulation for a school psychologist to determine whether an individual psychological evaluation is unnecessary for the initial evaluation.</i></p> <p><i>In addition, as per Commissioner’s Regulations, a group of qualified professionals can review existing evaluation data on the student and determine that additional data is not needed.</i></p>
	<ul style="list-style-type: none"> • Repeal the requirement that the school psychologist must conduct a screening and a written report whenever an individual psychological evaluation is not to be conducted as part of the initial evaluation of a student suspected of having a disability or for a reevaluation of a student with a disability. 	<p><i>We oppose eliminating the flexibility currently provided by this requirement.</i></p> <p><i>It should be noted that this provision was originally established to provide fiscal relief to school districts during a budget crisis in the 1990s.</i></p>
<p>Planning and Reporting Requirements</p> <p>6. Repeal the outdated requirement that the school district must provide a form to parents of certain children with disabilities</p>	<p>-----</p>	<p><i>We take no position on this proposal.</i></p>

<p>who are veterans of the Vietnam War for a report to the Division of Veterans' Affairs for research purposes. There are no longer significant numbers of such students who are currently of school age.</p> <p>7. Repeal the requirement for Boards of Education to have plans and policies for appropriate declassification of students with disabilities.</p>	<ul style="list-style-type: none"> • Retain the federal requirement that all students with disabilities must have a reevaluation prior to a recommendation for declassification. 	<p><i>We oppose this proposal.</i></p> <p><i>Declassification plans not only provide for the reevaluation of students prior to declassification but also consider necessary educational and support services for declassified students. Without such planning, students may not receive necessary services in order to benefit from instruction in the general education setting.</i></p>
<p>Approval of Certain Early Intervention (EI) Programs</p> <p>8. Repeal the requirement that the Commissioner of Education must approve the provision of early intervention services by approved preschool providers.</p>	<ul style="list-style-type: none"> • Transfer the responsibility for EI program approval to the Department of Health, which is the lead agency in New York State for Early Intervention Services. 	<p><i>We take no position on this proposal.</i></p>
<p>Commissioner's Appointment to State-Supported Schools</p> <p>9. Repeal the Commissioner of Education's role in appointments to State-</p>	<p>-----</p>	<p><i>We oppose any attempts to revise the appointment process without any information indicating current costs and anticipated savings realized through implementation of the proposal.</i></p>

<p>supported schools and the requirement that the State-supported school conduct an evaluation of the student in addition to the evaluation conducted by the school district.</p>		<p><i>In addition, the proposal does not describe how elimination of the current appointment process will safeguard an appropriate program placement that will meet the individual needs of the student. We have concerns regarding the impact such a change would have on least restrictive environment decisions for students with disabilities and New York state efforts to reduce the number of students with disabilities in more restrictive settings. The evaluation process conducted by the state-supported school ensures that the individual needs of the student are appropriately identified and that the state-supported school can meet those individual needs.</i></p>
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